

### **REMARKS**

In response to the Office Action mailed February 3, 2010, Applicants herein provisionally elect, with traverse, Group 1 (drawn to a MHC antigenic peptide or a combination thereof). Applicants also herein provisionally further elect, with traverse, SEQ ID NO:49. Applicants believe Claims 1-2, 14 and 23 will encompass this provisional election.

Additionally, in response to the Office Communication mailed June 28, 2010, Applicants wish to thank the Examiner for noting the incorrect listing/status of the Claims. Applicants have herein corrected the listing and status of the Claims by inserting the proper Claim set listing as noted in Applicants Preliminary Amendment of April 1, 2008<sup>1</sup> with the now proper status identifiers for said Claims.

Accordingly, and as listed in the Preliminary Amendment of April 1, 2008, claims 1-15, 17, 18, 23, 25 and 31 as previously amended are presented for examination and subject to the present restriction requirement.

#### **I. Restriction Election and Traversal**

Claims 1-15, 17, 18, 23, 25 and 31 currently stand pending and subject to restriction. The Examiner has restricted the claims into over one hundred and eight (108+) proposed groups, encompassing said 108+ groups into four main headings:

Groups 1-27+: Claims 1-14, 23 and 30, drawn to a MHC antigenic peptide or a combination thereof.

Groups 28-54+: Claims 15, 31, drawn to an antibody selective for a MHC antigenic peptide.

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<sup>1</sup> In the Preliminary Amendment of April 1, 2008, which supplemented the Preliminary Amendment filed on February 7, 2006, claims 2-13, 17, 18, 23 and 25 were amended and claims 16, 28 and 30 were canceled.

Groups 55-81+: Claims 16-18, drawn to a nucleic acid encoding a MHC antigenic peptide, and a vector.

Groups 82-108+: Claims 25 and 28, drawn to a method of diagnosing RA.

The Examiner further alleges that each MHC antigenic peptide (or combination thereof) etc comprises a distinct and separate invention. Applicants respectfully traverse such a restriction requirement.

Applicants first respectfully note that the pending claims as of the February 3, 2010 date of the Restriction Requirement and Office Action were Claims 1-15, 17, 18, 23, 25 and 31. As claims 16, 19-22, 24 and 26-30 were previously canceled in Applicants' April 1, 2008 Preliminary Amendment, Applicants will treat the pending Restriction Requirement as applying to only pending Claims 1-15, 17, 18, 23, 25 and 31.

Applicants herein provisionally elect, with traverse, Group 1 (Claims 1-14 and 23, drawn to a MHC antigenic peptide or a combination thereof). Applicants also herein provisionally further elect, with traverse, SEQ ID NO:49.

Applicants wish to thank the Examiner for clarifying the identification of each group as to each claim. Applicants believe Claims 1-2, 14 and 23 will encompass the provisional election, with traverse, of Group I and SEQ ID NO:49.

## **II. Traversal of Restriction Election**

Applicants respectfully traverse the restriction requirement for the following rationale. First, Applicants respectfully disagree with the Examiner's reasoning that restriction is required. Applicants respectfully urge that the Restriction Requirement does not establish that searching all the inventions would constitute an undue burden to

the Patent Office. Accordingly, Applicants submit that the Restriction Requirement is improper and should be withdrawn or at least modified.

The MPEP lists two criteria for a proper restriction requirement. First, the invention must be independent or distinct. MPEP § 803. Second, searching the additional invention must constitute an undue burden on the Examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden...even though it includes claims to distinct or independent inventions." *Id.* There is no statement nor showing alleged by the Examiner of an undue burden. Applicants respectfully submit that the imposed restriction requirement does not therefore satisfy the MPEP.

Additionally, with the election of the Group I herein to SEQ ID NO:49, Applicants respectfully submit that the Examiner's reason for the further restriction of Groups I-27+ does not exist for any election of SEQ ID NOs other than, arguably, SEQ ID NO: 109. The Examiner has apparently broadly alleged that even within Group I, sequences therein do not share the same or corresponding "special technical feature", based upon a cited reference (WO 93/18153) which lists a single apparently similar sequence, but not identical, to the other sequences of Groups I-27+ . With the election of SEQ ID NO:49 of Group I, it is respectfully suggested that a special technical feature would now be shared, at the very least, within all of the specified sequences of Group I (other than arguably SEQ ID NO: 109) and thus that all but one of Groups I-27+ would satisfy PCT Rule 13.2.

Accordingly, for all the reasons discussed supra, Applicants respectfully submit that the restriction requirement is improper and should be withdrawn or at least modified.

No further fee is required in connection with the filing of this Amendment. If any additional fees are deemed necessary, authorization is given to charge the amount of any such fee to Deposit Account No. 08-2525.

Respectfully submitted,

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